

AMENDMENT UNDER 37 C.F.R. § 1.1116

U.S. Appln. No.: 09/910,902

Attorney Docket No.: Q63847

REMARKS

Claims 1-6 and 8 are pending in the application. Claims 7 and 9 were previously canceled. The claims are amended for editorial clarification to use language like that in U.S. Patent 6,645,411 without narrowing the scope of the claims. No new matter is added.

Entry of the amendment is respectfully requested along with reconsideration and review of the claims on the merits.

Claims 1-6 and 8 are rejected under 35 U.S.C. § 112, first paragraph, for allegedly lacking written description. Specifically, the Examiner asserts that the specification as filed did not disclose that the acrylate content of the copolymer was 10-35% by weight of acrylate monomer, and that Applicants have not presented any proof showing that this is the case in the art.

Applicants respond as follows. MPEP § 2163.07 (I) describes that “The mere inclusion of dictionary or art recognized definitions known at the time of filing an application would not be considered new matter.”

Applicants previously pointed out that it is understood in the cable industry that the acrylate monomer content as disclosed in the application is % by weight, and amended the specification and claims accordingly (See Amendment of January 6, 2004, page 7).

With regard to percentage by weight of the elements claimed, Applicants submit that it is normal to one skilled in the art of chemistry to cite the percentages in a mixture by weight percentages. Another possibility is parts by weight. When making a mixture, chemists use parts

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by weight. However, the percentage of the elements in the mixture is always given in weight percentage.

As the Examiner requests proof that one would have in fact known that the content is % by weight and to facilitate prosecution of this application, Applicants submit cites to references for support of Applicants' position. Kindly see, for example, WO 00/36612 (cited in the Information Disclosure Statement filed September 13, 2001), which refers to 17% by weight butyl acrylate in an ethylene/butyl acrylate copolymer. Also, see Glander et al. (US 4,289,860), Examples I-III at columns 11-12 and column 7, line 39 indicating mixture components by % - by weight; and Furrer et al. (US 5,112,919) also indicating components by % by weight, at column 6, lines 24-25, column 5, lines 7-11 and lines 27-30, and column 8, line 51, even when the words "% - by weight" are not specifically recited.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. § 112, first paragraph.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

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The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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